

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY BERLIN IMMEDIATE

C O N F I D E N T I A L STATE 131521

E.O. 11652: GDS

TAGS: PGOV, CVIS, EEWT, GATT, GE, US

SUBJECT: VISAS FOR WMW TRADE OFFICE ACTING DIRECTOR
HORST LANGE

REF: BERLIN 3463

1. ON MAY 22, UNDERSECRETARY NEWSOM SENT FOLLOWING
LETTER TO GDR AMBASSADOR SIEBER:

BEGIN TEXT:

FOLLOWING UP ON MY USEFUL AND PLEASANT CONVERSATION
ON MAY 10 WITH DR. BEIL AND IN RESPONSE TO YOUR
LETTER OF MAY 13, I SHOULD LIKE TO INFORM YOU THAT
THE UNITED STATES GOVERNMENT WOULD BE PLEASED TO
CONSIDER FAVORABLY AN APPLICATION FOR L VISAS FOR
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THE EMPLOYEES OF THE NEW YORK OFFICE OF THE WMU
MACHINE TOOL FOREIGN TRAD: ENTERPRISE, AS SOON AS
SUCH AN APPLICATION IS SUBMITTED. I SUGGEST THAT
WMW'S AMERICAN LAWYER FILE THE APPROPRIATE
PETITION WITH THE NEW YORK OFFICE OF THE UNITED
STATES IMMIGRATION AND NATURALIZATION SERVICE.

WITH REGARD TO THE EMBASSY'S NOTE OF SEPTEMBER 13, 1977 REQUESTING PERMISSION TO OPEN NEW YORK OFFICES OF JENOPTIK JENA GMBH AND UNITECHNA FOREIGN TRADE ENTERPRISES, I REGRET THAT WE SHALL NOT BE IN POSITION TO RESPOND DEFINITELY TO THAT NOTE UNTIL AFTER THE FOREIGN MINISTER AND THE SECRETARY HAVE MET ON JUNE 6.

WITH REGARD TO THE EMBASSY'S NOTE ON MARCH 9, 1978 CONCERNING THE MATTER OF DRIVING LICENSES FOR GDR SERVICE ENGINEERS POSSESSING B VISAS, THE GRANTING OF SUCH LICENSES IS, UNDER OUR FEDERAL SYSTEM, A MATTER FALLING WITHIN THE JURISDICTION OF THE CONSTITUENT STATES OF THE UNITED STATES OF AMERICA. MOST STATES, HOWEVER, GRANT RECOGNITION TO THE VALID DRIVING LICENSES GRANTED BY OTHER JURISDICTIONS INCLUDING FOREIGN COUNTRIES. IN NEW YORK AND NEW JERSEY, WHERE I UNDERSTAND YOUR SERVICE ENGINEERS DO MUCH OF THEIR WORK, SECTION 250, PART 2 OF ARTICLE 3 OF THE VEHICLE TRAFFIC CODE OF THE STATE OF NEW YORK AND TITLE 39:3-17 OF THE REVISED STATUTES OF THE NEW JERSEY CODE EXPLICITLY RECOGNIZE VALID DRIVING LICENSES GRANTED BY FOREIGN COUNTRIES. YOUR ENGINEERS SHOULD THEREFORE, BE ABLE TO DRIVE A VEHICLE IN THOSE STATES WHEN IN POSSESSION OF AN INTERNATIONAL DRIVER'S PERMIT ACCOMPANIED BY A VALID GDR DRIVING LICENSE. I SUGGEST CONFIDENTIAL

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THAT THE COMPANIES FOR WHOM THE ENGINEERS ARE DOING SERVICE WORK CONFIRM THESE FACTS WITH THE APPROPRIATE STATE MOTOR VEHICLE LICENSING AUTHORITY.

END TEXT.

2. INS, WHICH CLEARED ABOVE LETTER, HAS PROMISED TO EXPEDITE L VISA ISSUANCE TO LANGE AND FAMILY AS SOON AS I-129B PETITION HAS BEEN FILED. INS, HOWEVER, HAS NO RECORD OF SUCH A PETITION HAVING BEEN FILED TO DATE, AND REFTEL IS FIRST INDICATION DEPARTMENT HAS HAD THAT LANGE WAS INTENDED TO BE ACTING DIRECTOR OF WMW TRADE OFFICE. LANGE IS NOT ELIGIBLE FOR A OR B VISA AND WILL HAVE TO AWAIT APPROVAL OF L PETITION BEFORE DEPARTING FOR UNITED STATES. IN INFORMING MFA AND MFT OF THIS FACT, EMBASSY SHOULD MAKE CLEAR THAT DELAY REST WITH GDR WHICH, DESPITE REPEATED ADVICE TO DO SO FROM EMBASSY AND STATE AND COMMERCE DEPARTMENTS, HAD FAILED TO FILE AN APPLICATION FOR THE APPROPRIATE VISA. FYI IN THIS AND OTHER RESPECTS, BEIL'S REMARKS TO UNDERSECRETARIES NEWSON

AND HARMAN WERE INACCURATE. END FYI.

3. THE HISTORY OF THE TRADE OFFICES ISSUE AND THE USG POSITION THEREON IS AS FOLLOWS:

IN A NOTE OF JUNE 28, 1977, WE GAVE THE GDR PERMISSION TO OPEN A NEW YORK OFFICE FOR THE WMW MACHINE TOOL FOREIGN TRADE ENTERPRISE. WE POINTED OUT THAT THE PERSONNEL OF THIS NON-GOVERNMENTAL TRADE PROMOTION OFFICE WOULD BE SUBJECT TO LAWS AND REGULATIONS OF THE U.S. AND THE STATE AND CITY OF NEW YORK AND THAT NEITHER THE PREMISES NOR THE PERSONNEL WOULD ENJOY DIPLOMATIC IMMUNITY. IN SUBSEQUENT CONVERSATIONS WITH COMMERCIAL AND CONSULAR

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OFFICERS FROM THE GDR EMBASSY, WE MADE CLEAR THAT, WHILE THE OFFICE'S PERSONNEL WOULD NOT BE ELIGIBLE FOR DIPLOMATIC A VISAS, THEY WOULD BE ELIGIBLE FOR INTRA-COMPANY TRANSFEREE L VISAS, APPLICATION FOR WHICH WOULD HAVE TO BE MADE BY THE AMERICAN LAWYER RETAINED BY THE GDR IN NEW YORK.

4. IN A NOTE OF SEPTEMBER 13, 1977, THE GDR REQUESTED PERMISSION TO OPEN TWO NEW NON-GOVERNMENTAL TRADE PROMOTION OFFICES IN NEW YORK REPRESENTING THE JANOPTIK (OPTICAL DEVICES) AND UNITECHNA (PRINTING AND TEXTILE MACHINERY) FIRMS. IN A NOTE OF OCTOBER 17, 1977, WE TOLD THE EAST GERMANS MERELY THAT WE WOULD INFORM THEM WHEN A DECISION HAD BEEN MADE. SUBSEQUENTLY, WE HAVE STRESSED THAT OUR DECISION WOULD BE MADE AGAINST THE BACKGROUND OF THE OVERALL STATE OF OUR RELATIONS AND SPECIFICALLY KEYED TO MOVEMENT OR LACK THEREOF ON DIVIDED FAMILIES AND A CONSULAR CONVENTION.

5. DURING HIS MAY 10 DISCUSSION WITH UNDERSECRETARY OF COMMERCE HARMAN, BEIL SAID THAT THE ABSENCE OF OFFICES IN NEW YORK WAS SO HAMPERING GDR TRADE EFFORTS IN THE U.S. THAT THE GDR WAS CONSIDERING OPENING A BRANCH OF ITS EMBASSY'S COMMERCIAL SECTION THERE AS AN ALTERNATIVE. SUCH A "BRANCH" WOULD BE A QUALITATIVELY DIFFERENT GOVERNMENT OFFICE--THE TYPE OF "SEPARATE OFFICE" WE ARE BOTH PLEDGED TO OPEN ONLY ON THE BASIS OF RECIPROCITY AND A SEPARATELY NEGOTIATED AGREEMENT. WE WOULD WANT TO GRANT PERMISSION FOR SUCH AN OFFICE, ONLY IF THERE WERE INTEREST ON THE U.S. SIDE IN A SECOND CONSULAR, COMMERCIAL OR CULTURAL OFFICE.

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6. THE TRADE OFFICES ARE PERCEIVED BY THE GDR AS IMPORTANT TO ITS MARKET DEVELOPMENT EFFORTS IN THE U.S. WHICH, IN TURN, ARE IMPORTANT TO ITS EFFORTS TO EASE ITS HARD CURRENCY DRAIN AND IMPROVE ITS BALANCE OF TRADE WITH THE U.S.--A BALANCE BADLY SKEWED BY THE GDR'S HEAVY GRAIN PURCHASES. THE DELAY IN OPENING THE WMW OFFICE IS MORE LIKELY LINKED TO THE GDR'S HARD CURRENCY SITUATION AND ITS CONCOMITANT DESIRE TO SAVE MONEY BY COLLOCATING ALL THREE OFFICES IN ONE SUITE IN NEW YORK RATHER THAN TO ANY REAL OR IMAGINED VISA DIFFICULTIES.

7. THE TRADE OFFICES ARE UNIMPORTANT TO US ON THEIR OWN MERITS. THEY ARE, HOWEVER, USEFUL AS LEVERAGE ON DIVIDED FAMILIES AND THE CONSULAR CONVENTION--LEVERAGE WHICH THE URGENCY OF BEIL'S APPEALS AND SUBSEQUENT PRODDING SUGGESTS MAY BE MORE THAN MARGINAL. WE SHOULD NOT GIVE UP THAT LEVERAGE UNTIL WE HAVE EXHAUSTED THE POSSIBILITIES OF NEGOTIATING A CONSULAR CONVENTION. SINCE BEIL SUGGESTED THAT FOREIGN MINISTER FISCHER IS "PREPARING" TO DISCUSS THAT ISSUE DURING HIS JUNE 6 MEETING WITH THE SECRETARY, WE WILL DELAY A DECISION ON THE TWO NEW TRADE OFFICE, UNTIL AFTER THAT MEETING. CHRISTOPHER

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